Order

July 29, 2014

Robert P. Young, Jr.,
Chief Justice

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

148687

PEOPLE OF THE STATE OF MICHIGAN,
        Plaintiff-Appellee,

v

                                      SC: 148687
                                        COA: 316045

NICHOLAS TYRONE ANTHONY,
        Defendant-Appellant.   Macomb CC: 2011-000807-FH

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On order of the Court, the application for leave to appeal the December 17, 2013 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Macomb Circuit Court for further proceedings consistent with this order. Appointed counsel may file an application for leave to appeal the defendant's January 5, 2012 plea-based conviction to the Court of Appeals, as well as any necessary or appropriate postconviction motions in the trial court, within six months of the date of this order. If a postconviction motion is filed in the trial court, counsel may file an application for leave to appeal to the Court of Appeals within six months of the order disposing of that motion. The defendant, through no fault of his own, was deprived of the opportunity to have appointed appellate counsel file a timely motion to withdraw the plea and application for leave to appeal, due to the trial court's failure to timely respond to the defendant's March 3, 2012 request for counsel pursuant to MCR 6.425(G)(1)(a); due to clerical errors in the April 24, 2012 order appointing appellate counsel; and/or due to appellate counsel's oversights. See *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed 2d 552 (2005); *Roe v Flores-Ortega*, 528 US 470, 477; 120 S Ct 1029; 145 L Ed 2d 985 (2000); and *Peguero v United States,* 526 US 23, 28; 119 S Ct 961; 143 L Ed 2d 18 (1999).

We do not retain jurisdiction.

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 29, 2014

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Clerk